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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/694,223 | 10/28/2003 | Francis A. Rochette | BMA2237 | 2992 |
| 7590 | 09/09/2004 | | EXAMINER | |
| Sean A. Kaufhold P.O. Box 131447 Carlsbad, CA 92013 | | | HAYES, BRET C | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3644 | |

DATE MAILED: 09/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|-----------------|---|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/694,223 | ROCHETTE, FRANCIS A.  |
| Examiner | Art Unit | |
| Bret C Hayes | 3644 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on ____.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) Claim(s) 11 is/are allowed.
- 6) Claim(s) 1,5,9 and 10 is/are rejected.
- 7) Claim(s) 2-4 and 6-8 is/are objected to.
- 8) Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 28 October 2003 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. ____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 10/28/2003
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: ____.

DETAILED ACTION

Claim Objections

1. Claim 2 is objected to because of the following informalities: line 2, replace “an first” with --a first--. Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 9 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 3,648,644 to Nunley.

4. Re – claim 1, Nunley discloses the claimed invention including a device for leashing an animal comprising: an elongated flexible member 33; a runner 21, the member 33 extending through the runner 21 selectively positioned along a length of the member 33; an elongated tubular member 34 having a bend forming an obtuse angle, the member 33 extending through the member 34, a coupler 43 (et al.) being attached to the member 34 for selectively coupling to a vertical structure 47; and a leash 49 attached as claimed.

5. Re – claim 9, Nunley further discloses the coupler 43 (et al.) comprising a plate 36 and a securing member 43, the plate 36 being attached to and extending along a length of the member 34, the member 43 comprising a tether being attached to and extending away from a free end of the plate 36.

6. Re – claim 10, Nunley further discloses the coupler 43 (et al.) comprising a plate 36 and a securing member 43, the plate 36 being attached to and extending along a length of the member 34, the member 43 comprising a bracket 46 being attached to and extending away from a free end of the plate 36.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nunley.

9. Nunley discloses the claimed invention as applied above except for a runner guide. It would have been obvious to one having ordinary skill in the art at the time the invention was made to a runner guide, since the elongate tubular member 34 disclosed by Nunley is a runner 21 guide and, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St, Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Allowable Subject Matter

10. Claim 11 is allowed.

11. The following is a statement of reasons for the indication of allowable subject matter: the prior art of record neither discloses nor fairly teaches the recited limitations of the claimed invention including, but not limited to: the runner having a housing with an elongated aperture, a slot orientated perpendicular to a longitudinal axis, a first guide wheel, a saddle mounted in the aperture, a biasing member, a second guide wheel, and a loop.

12. This statement is not intended to necessarily state all the reasons for allowance or all the details why the claims are allowed and has not been written to specifically or impliedly state that all the reasons for allowance are set forth (MPEP 1302.14).

13. Claims 2 – 4 and 6 – 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication should be directed to Bret Hayes at telephone number (703) 306 – 0553. The examiner can normally be reached Monday through Friday from 5:30 am to 3:00 pm, Eastern Standard Time.

If attempts to contact the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu, can be reached at (703) 305 – 7421. The fax number is (703) 872 – 9306.

bh

9/3/04



TERI P. LUU
SUPERVISORY PRIMARY EXAMINER